

Resolved: "Alternate methods of treating lawbreakers of society are available and should be used to a greater extent in place of prison sentencing."

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In 1790 a group of Philadelphians were outraged by the traditional sentences of corporal and capital punishment. They proposed a new sentence, that of prison. Prison was to be a place where wrong-doers would be reformed through solitary labor, bible study, and repentance. Today in the operation of 6,500 penal institutions the United States locks up over 500,000 Americans on any given day. The U.S. also spends five billion dollars each year to operate these prisons, and will spend as much as \$5.7 billion plus inflation costs in the construction of local, state, and federal jails.¹ Over the decades the idea of prisons has become world-wide, and the popularity of its sentence is common talk of even the youngest members of society.

The standard procedure today is to take criminal offenders and imprison them for varied lengths of time with respect to the level of crime that was committed. These offenders are allowed to be paroled after serving at least one-third of their sentence. There are underlying problems within the status quo of the criminal justice system regarding the imprisonment of public offenders. More than half of the people put in jail each year are not convicted of crimes, but are merely awaiting trial. Most are held because they are poor or not connected with people who could possibly bail them out. Whether these people are guilty or not, they wait many months for trial often under inhuman conditions.² When prison cells are unavailable, which occurs often because they are

¹ American Foundation, Inc., *Just the Facts* (n.p.: n.p., n.d.), p.4.

² *Ibid.*, p.5.

filled by keeping people in them for long periods of time, as many as two or three accused persons can be assigned to one cell.³ It is reassuring to know that sentenced prisoners are not just mainstreamed or thrown back onto the streets at the end of their sentence. They are instead taken from a maximum security prison and placed into a minimum security prison, and then to a half-way house under some supervision, finally to be allowed back into society. However, now with the crowding in jails, it is disappointing to find that criminals are indeed mainstreamed and thrown back into society.⁴ One solution being worked on to solve the problem of overcrowding is to build more prisons. The problem with this idea is evident when we see the cost of doing this. For each dollar in construction costs, it would cost sixteen dollars to operate that prison over the next thirty years of its existence.⁵ Problems can also arise when prisons expand into heavily populated and suburban areas. The value of surrounding property decreases, and contact between offenders and free society is limited and totally unsatisfactory since it resembles a zoo type situation.⁶ Also, because the prison is no longer one unit in one centralized location, it can not function under the same set of rules exactly, therefore, it is not able to supervise its offenders equally.⁷ Most people who are jailed while awaiting trial

³ *Ibid.*

⁴ Personal interview with Judge James E. Morris, Attorney at Law, Rochester, N.Y., February 3, 1983.

⁵ Pretrial Services Resource Center, *The Pretrial Reporter* (Washington, D.C.: n.p., 1982), p.7.

⁶ Personal interview with John F. Tracy, Probation Supervisor, Monroe County Hall of Justice, Rochester, N.Y., February 19, 1983.

⁷ Interview with Judge Morris, Attorney at Law.

will be subjected to many inconveniences. They will lose their jobs and perhaps be placed in prison with hardened criminals or embittered people. As Norman Carlson, head of the Federal Bureau of Prison puts it, "Jails are tanks, warehouses. Anyone not a criminal when he goes in, will be when he comes out."⁸ John F. Tracy, Probation Supervisor at the Monroe County Hall of Justice in Rochester, N.Y. states that, "...society stands to lose by having an individual incarcerated [since he may] actually learn more about crime...."⁹ He continues, acknowledging the fact, "...prisons, although they're meant to be corrective, are breeding houses for crime."¹⁰ People are in prison for punishment, and the longer they are in those surroundings the more comfortable they become. This raises many questions by both officials of the criminal justice system and citizens of the community. These include 'Can and should prisons rehabilitate?', 'Does locking up a criminal stop others from crime?', and 'Is incarceration a good way to punish most lawbreakers?'¹¹

People who do not need to be in jails can be removed to allow room and time for police to unclog the courts and give undivided attention toward serious criminals. These types of people are the ones charged with victimless crimes such as drug addiction, alcoholism and gambling, and truancy or running away from home. These acts harm only the individuals that perform them. Removal of such offenders from jails could

⁸ American Foundation, *Facts*, p.6.

⁹ Interview with John F. Tracy, Probation Supervisor.

¹⁰ *Ibid.*

¹¹ American Foundation, *Facts*, p.14.

ultimately help the taxpayer who is footing the bill.¹² As Judge James E. Morris, Attorney at Law replies,

"Jail does only two things.... It punishes in the sense that the person isn't going to be able to commit the same act... they're punished for not being able to repeat it.... Secondly,... it keeps [prisoners] out of society, and that's the only purpose of jail... no-one's rehabilitated in jail."¹³

It is not true to say that there is completely no rehabilitation in jails. There is an attempt of rehabilitation provided through job training programs and counselling programs. These programs do not, however, dig deep enough into an individual's problems. One program that does begin to get involved with these problems is probation. Probation has been around for almost eighty years, and is the oldest alternative to incarceration. Probation allows convicted offenders to remain in the community under supervision of the sentencing court. Probation helps supervise offenders by requiring reports to a probation officer, and also, the probation officer makes field visits to the supervised location of the offender. The offender, or probationer, and the probation officer get together for one-on-one counselling. This allows the officer to clearly identify with the probationer's problems prior to the crime he committed and achievements since sentencing. In addition to counselling, the officer can refer the probationer to other community agencies for specific problems. When a referral is made the probationer is ordered to comply. Problems leading to referral by the officer include alcoholism, marital problems, vocational limitations, and physical, mental, and emotional disturbances. Another excellent program sometimes appended to the sentence of probation is community service. As with probation, community service programs are designed to provide an alternative to incarceration. These programs are used to oversee those offenders whom judges sentence to work as community volunteers for an ordered number of hours as a repayment for having violated community laws. People receiving this type of sentence operate youth centers, assist the elderly and the retarded, renovate community centers, and other similar activities.¹⁴ A fact that should be noted as stated by John F. Tracy is that "The idea [of community service programs] is not to provide the community with free labor...[it] is to develop community service plans that might stimulate the offender into a greater awareness for the consequences of his crime."¹⁵ Another solution to incarceration similar to probation in its workings is the Intensive Supervision

¹² *Ibid.*, p.15.

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Interview with Judge Morris, Attorney at Law.

¹⁴ American Foundation, *Facts*, p.16.

¹⁵ Interview with John F. Tracy, Probation Supervisor.

program. In this program offenders are assigned to a probation officer with a limited case load where they can receive maximum supervision. With this program, each probation officer has a case load of twenty-five clients as opposed to one hundred ten; the normal size case load. This allows probation officers to devote more time to their probationers. The probationer must report at least once a week to the officer, and the officer himself must make four field calls, a home visit, and three other contacts with the probationer in the community. Also, with Intensive Supervision, as with probation, the probationer is referred to other agencies for specialized help in dealing with mental, physical, and emotional problems. The probation officer remains in contact with the probationer as before, and must receive regular reports on progress, diagnosis, and prognosis.¹⁶ If the government would stress the use of these sentences and make information about them easily accessible, more could be done toward treating the offender's problems instead of filing them away in giant cabinets only to be enriched and enhanced. Also, with greater public awareness there is less chance of public opposition.

The drawbacks of these sentences are few. With the Intensive Supervision program, the probationer can not leave the community or its surroundings and neither can his family under jurisdiction of the sentencing court. However, these cases are subjected to periodic review by the probation officer and his supervisor. When it appears that the individual's problems have diminished to the point where he can be placed in regular probation, he is taken out of Intensive Supervision and is put into probation.¹⁷ As John F. Tracy points out

"A major problem with probation and community service... is that we have to low a profile. There should be more effort to inform the public [of what probation and community service can accomplish]...."¹⁸

Prison confinement is generally recognized as the most expensive sanction. The taxpaying public suffers when tax revenues from confined offenders' earnings are lost in addition to bearing the direct costs of prisons.¹⁹ The annual average cost for a first year probationer is around nine hundred dollars, while that for a year in a state prison is sixteen thousand dollars. Removal of prisoners, therefore, could ultimately help the taxpayer who is footing the bill.²⁰ In an interview with Judge James E. Morris, he explained an example of community service.

¹⁶ *Ibid.*

¹⁷
Ibid.

¹⁸ *Ibid.*

¹⁹ U.S. Dept. of Justice, *Community Service by Offenders* (Washington, D.C.: n.p., 1981), p.6.

²⁰ American Foundation, *Facts*, p.15.

"I had a young man... a short time ago he was riding a Regional Transit bus, and while on the bus he was carving the seats up. We could have put him in jail for fifteen or twenty or thirty days... to punish him." "... a better sentence would be to have him spend forty hours repairing and cleaning buses." "... that kind of [punishment] would give him respect for the actual property he had disrespected before, and it also would provide a benefit to the community in making one thing a little more pleasant that wasn't... at no cost to the community."²¹ Actions can and should be taken to assist persons on community service programs so that they build self character, learn to deal with other people, pay restitution, and do not repeat the crime. If they do get involved again with the court system, then they know that their next course is jail. There are some people who do not qualify for these sentences. These people are hardend or have been through the system before, or they are unwilling to do things beneficial to the community and themselves.²² Also, there can not be twenty-four hour supervision, and the courts are gambling on the offenders attitude and sincerety. If placed in community service, they do not follow through in completing their assignments. In elimination of these people there are still many more advantages to community service as opposed to incarceration. Rehabilitation can be carried on in a normal community social setting. An individual can show his capacity to function as a member of a free society with the help and supervision of an external agency.²³ Community service keeps the offender's family unit intact, and if the offender has a job he is kept a productive wage earner and tax payer. Also, as John F. Tracy confirms, the courts are not subjecting an individual, especially a young impressionable youth, to hard-core experienced convicts in a closed setting "... where it can actually be a finishing school for crime."²⁴ In addition to the surroundings of prison comes the consideration of the failure rate, which is the percentage of repeat offenders. For such sentences as probation, only 9% of the people return to court because of another crime. The failure rate for people sentenced to prison and released is 87%.

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Interview with Judge Morris, Attorney at Law.

²² *Ibid.*

²³ Interview with John F. Tracy, Probation Supervisor.

²⁴ *Ibid.*

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